

Service Date: February 10, 1981

DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION

IN THE MATTER of the APPLICATION)
of the BUTTE WATER COMPANY for)
authority to increase its rates and)
charges for service to its BUTTE)
and ANACONDA, MONTANA, customers.)

UTILITY DIVISION
DOCKET NOS. 6801 & 6802
ORDER NOS. 4699b & 4700b

ORDER DENYING, MOTION

FOR RECONSIDERATION AND REHEARING

1. Butte Water, in its Motion, challenges the Commission's disallowance of rate increases for customers suffering the serious sand problems outlined in the record. Butte Water does not challenge the Commission's finding that there is a serious problem, but merely claims that Butte Water cannot be blamed for it. Butte Water's counsel is well aware that Montana law requires utilities to render adequate service at reasonable rates, 69-3-201, MCA. A customer who receives the amount of sand in his water that was testified to at the hearing is not receiving adequate service.

It was for this reason that those suffering from this service were exempted from the rate increase. As Butte Water's Motion notes "...if its ratepayers are to have good service then they should pay for it." (p. 11) The logical converse of this principle is that they should not pay for good service when they receive bad service.

2. The Commission agrees with Butte Water that it insufficiently explained its reasons for rejecting Lanou's assessment of risk. Quite obviously, in doing so, the commission accepted Dr. Smith's analysis: that differences among water utilities in risk factors which may affect the cost of capital are less significant than differences between the water utility industry and other industries. Both Smith and Lanou agree that the average return on equity for a water utility is in the range of 13.9 percent but Lanou contends that BW stock is more risky and therefore should have a higher rate of return. The Commission found to the contrary in view of BW's status as a wholly owned subsidiary.

Lanou's assessment failed to take into consideration Butte Water's status as a wholly owned subsidiary of the Anaconda Company, which is, in turn, a wholly owned subsidiary of

ARCO. Although these relationships would obviously have some effect on the riskiness of Butte Water, Lanou ignored them in his risk analysis. Risk to ARCO, as the single and controlling shareholder of BW, is less than the risk to a shareholder in some other commonly held utility because ARCO ultimately has the ability to control its subsidiary. ARCO decides when a rate case will be filed, it decides when and where construction and capital improvements will be made, etc. Another example of the parents' ability to control BW's relates to the lack of attention paid to BW's financial condition as testified to by Applicant's witness Byrne¹.

3. In his motion for reconsideration, the Applicant's attorney alleges that BWC is not making accruals for payment of property taxes. The Applicant's witness Moke on cross examination admits that the response to data request M is the monthly accruals for property taxes claimed in this case and that those accruals are being made. Since these taxes are post paid, the Applicant has use of such funds between the time they are received from the customer and the time they are paid. Property taxes are payable in November of the current year and in May of the following year; therefore, the Applicant has available, on the average, approximately 60 percent of the test year property tax accrual. It is for this reason that the working capital is reduced by that amount.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and subject matter in this proceeding.
2. The Commission afforded all parties interested in this proceeding proper notice and an opportunity to participate.
3. The rates approved by Order No. 4700a are reasonable, just and proper.

¹ The Commission notes that the subsidiary relationships in this case also raises different policy questions: According to Byrne's testimony, Butte water's financial plight which serves as the basis for Lanou's risk analysis, was due in part to the purchase of the Anaconda Company by ARCO. However, under Lanou's analysis, the companies WJ1O were responsible for those problems would be rewarded by a higher return than would otherwise be required.

ORDER

The Butte Water Company's Motion for Rehearing and Reconsideration is hereby denied.

THE FOREGOING ORDER was adopted by the Department of Public Service Regulation of the State of Montana, Public Service Commission, IN OPEN SESSION at Helena, Montana, this 9 th day of February, 1981, by a vote of 2-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

CLYDE JARVIS, Commissioner

THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Madeline L. Cottrill
Secretary

(SEAL)